

SECOND REGULAR SESSION

HOUSE BILL NO. 1090

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE REYNOLDS.

Pre-filed December 3, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

3058L.011

AN ACT

To amend chapter 324, RSMo, by adding thereto nine new sections relating to the licensing of tanning bed operators, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 324, RSMo, is amended by adding thereto nine new sections, to be
2 known as sections 324.1150, 324.1153, 324.1156, 324.1159, 324.1162, 324.1165, 324.1168,
3 324.1171, and 324.1174, to read as follows:

324.1150. For purposes of sections 324.1150 to 324.1174, the following terms mean:

- 2 (1) "Director", the director of the division of professional registration in the
3 department of economic development;
- 4 (2) "Division", the division of professional registration of the department of
5 economic development;
- 6 (3) "Photo therapy device", equipment that emits ultraviolet radiation used by a
7 health care professional in the treatment of disease;
- 8 (4) "Tanning device", any equipment that emits electromagnetic radiation with
9 wavelengths in the air between 200 and 400 nanometers used for tanning of the skin,
10 including, but not limited to a sunlamp, tanning booth, or tanning bed;
- 11 (5) "Tanning facility", any location, place, area, structure, or business which
12 provides persons access to any tanning device for a fee.

324.1153. No person shall operate a tanning facility without a license issued by the
2 **director. All licenses issued by the division and every renewal of such license shall be**
3 **conspicuously displayed in the tanning facility.**

324.1156. 1. A tanning facility shall give each customer a written statement
2 **warning that:**

(1) Not wearing the eye protection provided to the customer by the tanning facility may cause damage to the eyes;

(2) Over exposure causes burns;

(3) Repeated exposure may cause premature aging of the skin and skin cancer;

(4) Abnormal skin sensitivity or burning may be caused by certain:

(a) Foods;

(b) Cosmetics;

(c) Medications, including but not limited to, the following:

a. Tranquilizers;

b. Diuretics;

c. Antibiotics;

d. High blood pressure medicines;

e. Birth control pills;

(5) Any person taking a prescription or over-the-counter drug should consult a physician before using a tanning device;

2. A tanning facility shall post a warning sign in any area where a tanning device is used. The sign shall read as follows:

DANGER: ULTRAVIOLET RADIATION

Follow instructions.

Avoid too frequent or too lengthy exposure. As with natural sunlight, exposure can cause eye and skin injury and allergic reactions. Repeated exposure may cause chronic sun damage characterized by wrinkling, dryness, fragility and bruising of the skin, and skin cancer.

Wear protective eyewear.

**FAILURE TO USE PROTECTIVE EYEWEAR MAY RESULT IN SEVERE BURNS
OR LONG-TERM INJURY TO THE EYES.**

Ultraviolet radiation from sun lamps will aggravate the effects of the sun. Therefore, do not sunbathe before or after exposure to ultraviolet radiation.

Medication or cosmetics may increase your sensitivity to ultraviolet radiation. Consult a physician before using a tanning device if you are using medications, have a history of skin problems, or believe you are especially sensitive to sunlight. Pregnant women or women on birth control pills who use this product may develop discolored skin.

**IF YOU DO NOT TAN IN THE SUN YOU WILL NOT TAN FROM USE OF THIS
DEVICE.**

3. A tanning facility shall not claim, or distribute promotional materials that

39 claim, that using a tanning device is safe or free from risk.

40 **4. The liability of a tanning facility operator or a manufacturer of a tanning**
41 **device is not changed by giving the warning as provided in subsection 2 of this section.**

324.1159. 1. A tanning facility shall:

2 **(1) Have an operator present during operating hours who is sufficiently**
3 **knowledgeable in the correct operation of the tanning devices used at the facility so that**
4 **he or she is able to inform and assist each customer in the proper use of the tanning**
5 **devices;**

6 **(2) Before each use of a tanning device, provide each customer with properly**
7 **sanitized protective eyewear that protects the eye from ultraviolet radiation and allows**
8 **adequate vision to maintain balance; and not allow a person to use a tanning device if**
9 **that person does not use the protective eyewear;**

10 **(3) Show each customer how to use suitable physical aids, such as handrails and**
11 **markings on the floor, to maintain proper exposure distance as recommended by the**
12 **manufacturer;**

13 **(4) Use a timer that has an accuracy of plus or minus ten percent of any selected**
14 **timer interval;**

15 **(5) Limit each customer to the maximum exposure time as recommended by the**
16 **manufacturer; and**

17 **(6) Control the interior temperature of a tanning facility so that it does not**
18 **exceed one hundred degrees Fahrenheit.**

19 **2. Every person who uses a tanning facility shall sign a written statement**
20 **acknowledging that he or she has read and understood the warnings provided in section**
21 **324.1153 before using the device and agrees to use the protective eyewear that the**
22 **tanning facility provides. The statement of acknowledgment shall be retained by the**
23 **tanning facility until the end of the calendar year at which time each person who is a**
24 **current customer of the facility shall be required to renew such acknowledgment.**

25 **3. Whenever using a tanning device a person shall use the protective eyewear**
26 **that the tanning facility provides.**

27 **4. Before any person between the ages of fourteen and eighteen uses a tanning**
28 **device, he or she shall give the tanning facility a statement signed by his or her parent**
29 **or legal guardian stating that the parent or legal guardian has read and understood the**
30 **warnings given by the tanning facility, consents to the minor's use of a tanning device,**
31 **and agrees that the minor will use the protective eyewear that the tanning facility**
32 **provides.**

33 **5. A person under the age of fourteen shall be accompanied by a parent or legal**

34 guardian when using a tanning device.

35 **6. All tanning devices used by a tanning facility shall comply with all applicable**
36 **federal laws and regulations.**

324.1162. 1. The director shall promulgate rules and regulations relative to the
2 **hygienic practice of tanning facilities and sanitary operations of tanning facilities. Such**
3 **rules and regulations shall include:**

4 **(1) Standards of hygiene to be met and maintained by the tanning facilities in**
5 **order to receive and maintain a license to operate a tanning facility;**

6 **(2) Procedures to be used to grant, revoke, or reinstate a license;**

7 **(3) Inspection of tanning facilities; and**

8 **(4) Any other matter necessary for the administration of sections 324.1150 to**
9 **324.1174.**

10 **2. No rule or portion of a rule promulgated pursuant to the authority of sections**
11 **324.1150 to 324.1174 shall become effective unless it has been promulgated pursuant to**
12 **the provisions of chapter 536, RSMo.**

324.1165. The provisions of sections 324.1150 to 324.1174 shall not apply to a
2 **photo therapy device used by or under the direct supervision of a licensed physician**
3 **who is trained in the use of photo therapy devices.**

324.1168. 1. The division shall set by rule the appropriate amount of fees
2 **authorized pursuant to sections 324.1150 to 324.1174. The fees shall be set at a level to**
3 **produce revenue which shall not exceed the cost and expense of administering the**
4 **provisions of sections 324.1150 to 324.1174. All funds received by the division pursuant**
5 **to the provisions of sections 324.1150 to 324.1174 shall be collected by the director who**
6 **shall transmit the funds to the department of revenue for deposit in the state treasury to**
7 **the credit of the "Tanning Facility Fund" which is hereby created.**

8 **2. The provisions of section 33.080, RSMo, to the contrary notwithstanding,**
9 **money in this fund shall not be transferred and placed to the credit of general revenue**
10 **until the amount in the fund at the end of the biennium exceeds three times the amount**
11 **of the appropriation from the tanning facility fund for the preceding fiscal year. The**
12 **amount, if any, in the fund which shall lapse is that amount in the fund which exceeds**
13 **the appropriate multiple of the appropriations from the tanning facility fund for the**
14 **preceding fiscal year.**

15 **3. No licensing activity or other statutory requirements shall become effective**
16 **until expenditures or personnel are specifically appropriated for the purpose of**
17 **conducting the business as required to administer the provisions of sections 324.1150 to**
18 **324.1174 and the initial rules filed have become effective. The director of the division of**

19 professional registration shall have the authority to borrow funds from any agency
20 within the division to commence operations upon appropriation for such purpose. This
21 authority shall cease at such time that a sufficient fund has been established by the
22 agency to fund its operations and repay the amount borrowed.

324.1171. The division shall employ, within the funds appropriated, such
2 employees as are necessary to carry out the provisions of sections 324.1150 to 324.1174.

324.1174. Any person who violates any provision of sections 324.1150 to
2 324.1174 is guilty of a class C misdemeanor.